

SUPPLEMENTAL ESTIMATE OF APPROPRIATION,
DEPARTMENT OF STATE, 1939

COMMUNICATION

FROM

THE PRESIDENT OF THE UNITED STATES

TRANSMITTING

A SUPPLEMENTAL ESTIMATE OF APPROPRIATION FOR THE FISCAL
YEAR 1939 TO REMAIN AVAILABLE UNTIL JUNE 30, 1940, AMOUNT-
ING TO \$10,000, FOR THE DEPARTMENT OF STATE

JANUARY 24, 1939.—Referred to the Committee on Appropriations and ordered
to be printed

THE WHITE HOUSE,
Washington, January 24, 1939.

THE SPEAKER OF THE HOUSE OF REPRESENTATIVES.

SIR: I have the honor to transmit herewith for the consideration of Congress a supplemental estimate of appropriation for the fiscal year 1939, to remain available until June 30, 1940, amounting to \$10,000, for the Department of State.

The details of this estimate, the necessity therefor, and the reason for its transmission at this time are set forth in the letter of the Acting Director of the Bureau of the Budget, transmitted herewith, with whose comments and observations thereon I concur.

Respectfully,

FRANKLIN D. ROOSEVELT.

BUREAU OF THE BUDGET,
Washington, January 23, 1939.

The PRESIDENT,

The White House.

SIR: I have the honor to submit herewith for your consideration a supplemental estimate of appropriation for the fiscal year 1939, to remain available until June 30, 1940, amounting to \$10,000, for the Department of State, as follows:

Arbitration of smelter fumes controversy, United States and Canada: For an additional amount for arbitration of smelter fumes controversy, United States and Canada, including the same objects specified under this head in the Department of State Appropriation Act, 1937, fiscal year 1939, to remain available until June 30, 1940, \$10,000, together with the unexpended balance of the appropriation for this purpose for the fiscal years 1936-38 (convention of April 15, 1935; 49 Stat. 1319; 50 Stat. 229).

Article III of the convention concluded April 15, 1935, between the United States and Canada for the establishment of a tribunal to decide questions of indemnity and future regime arising from the operation of the smelter at Trail, British Columbia, provides that the tribunal shall finally decide (1) whether damage caused by the smelter in the State of Washington has occurred since January 1, 1932, and, if so, what indemnity should be paid therefor; (2) in the event of the answer to the first part of the preceding question being in the affirmative, whether the smelter should be required to refrain from causing damage in the State of Washington in the future and, if so, to what extent; (3) in the light of the answer to the preceding question, what measures or regime, if any, should be adopted or maintained by the smelter; and (4) what indemnity or compensation, if any, should be paid on account of any decision or decisions rendered by the tribunal to the next two preceding questions.

Article XI of the convention provides that the tribunal shall report to the Governments its final decisions, together with the reasons on which they are based, as soon as it has reached its conclusions in respect to the questions, and within a period of 3 months after the conclusion of the proceedings, but that such period may be extended by agreement of the two Governments. As the proceedings were concluded on January 2, 1938, the date for the tribunal to render its final decision under the terms of the convention would have been April 2, 1938, but the time was extended by the two Governments to 3 months from October 1, 1940.

However, on April 16, 1938, the tribunal rendered an ad interim decision, which provides as follows: That damage had occurred from January 1, 1932, to October 1, 1937, and that the indemnity to be paid therefor is \$78,000 with interest at 6 percent from the date of filing this decision to the date of payment; that until the date of final decision the smelter should refrain from causing damage in the State of Washington to the extent set forth in a temporary regime provided for in the ad interim decision; and that the tribunal was not able with the information that had been placed before it to determine upon a permanent regime, and established a temporary regime for the purpose of administering an experimental period during the crop-growing seasons of 1938, 1939, and 1940, the winter seasons of 1938-39 and

1939-40, and until October 1, 1940, to be operated under the supervision of two experts who shall act as consultants to the tribunal and be under its authority, the expenses for this temporary regime to be undertaken by Canada.

On April 20, 1938, the chairman of the tribunal advised the agents for the United States and Canada that the tribunal was of the opinion it would be to the mutual interest of both countries to have a survey made in the end of April and in May, June, and July of the years 1938, 1939, and 1940 of crop conditions in the area of possible damage, and suggested that such survey be made jointly and simultaneously by persons employed by each country. It is understood that Canada has decided not to participate in the suggested survey, but the Department of State advises that while the temporary regime will be able to determine the points at which damage occurs, the nature and extent of the damage will not be known unless this survey is made, and that it considers a survey by the United States essential in order to protect the American interests.

When the letter of the chairman of the tribunal was received the crop-growing season for 1938 was too far advanced to make a survey for that year, but the Department recommends that surveys be made for 1939 and 1940. The purpose of this estimate is to provide funds for the 1939 survey, and to continue available until June 30, 1940, the unexpended balance of the appropriation for the expenses of the arbitration of the questions set forth in article III of the convention.

Approval of the estimate of appropriation is recommended.

Very respectfully,

D. W. BELL,

Acting Director of the Bureau of the Budget.



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